

Charter Review Committee

Minutes

December 15, 2016 6:00 p.m.

Carriage Place Community Center

4900 Sawmill Road, Columbus, Ohio

(audio tape and closed caption record available in the City Clerk's office)

Committee Members in Attendance:

Stefanie L. Coe, Chair

Jennette B. Bradley

Frieda L. Gilyard

Frederick E. Mills

John C. Rosenberger

Robert Vitale

Lourdes Barroso de Padilla

Rev. Tyrone A. Lawes

Keary McCarthy

Welcome and Opening Remarks

Committee Chair Stefanie Coe opened the meeting at 6:04 p.m., welcomed everyone to the final community presentation meeting and thanked Recreation Center Manager and staff.

Approval of the Minutes

Hearing no questions or corrections, Chair Coe asked for a motion to approve the Minutes, as submitted. Rosenberger moved, Mills seconded. All in favor, no one opposed. Motion carried and Minutes were approved.

Summary of Public Comments received to date

Edward Johnson reported on public comments received electronically via the website. Total number of public comment submissions is 46 during this process. Stephanie Megaw will be delivering raw copies of all the submissions to members' inboxes.

Discussion

Mr. Johnson reported on the research request that the City of Columbus has spent \$0 defending the at-large system of representation on City Council from legal challenges. In the past ten years Chicago has spent \$20 million in court defending their maps/district system.

Chair Coe introduced Assistant Director of the Department of Neighborhoods, Toya Johnson, for a presentation on Area Commissions. Ms. Johnson reviewed Columbus City Code Section 3109, which establishes the area commissions. (comments are summarized. Presentation slides on file in the records of the Charter Review Committee)

Council established area commissions in the 1970's to provide for additional citizens participation in decision-making in an advisory capacity/role. The other main function is to facilitate communication, understanding and cooperation between neighborhood groups, city officials, and developers coming

in to the neighborhoods to make improvements. All area commissions have bylaws that have to be disclosed and published. We have 18 area commissions throughout the city. The process to create an area commission begins with a petition from a task force containing 500 signatures of residents and property owners in the area. They have to provide notification to all residents that they are seeking to establish an area commission within 30 days after filing a petition. Residents have 60 days to file written objections with the City Clerk. The commission area needs to be a compact area that is manageable in size, large enough to be recognized but also small enough to have effective representation. Each area commission has no less than seven but no more than 21 members, and all of the members are appointed with the concurrence of Council. Nominations for individuals come to the Mayor for consideration, after having being voted by the task force body or the area commission body. The area commissions set their own bylaws and establish terms. Duties of the area commission are to work closely with the city officials in terms of local planning. They assist in creating plans and policies that serve as guidelines for future development. They also bring problems in any areas of concern to the attention to the appropriate city officials. They are required to hold regular public meetings pursuant to the terms in their bylaws. They work to solicit active cooperation of all residents and segments of that area, and they also initiate and support local proposals that are presented, and promote and encourage local businesses. They review the capital improvement budgets and propose new items. They make recommendations for the restoration and preservation of historical elements and review area plans and provide input prior to the adoption by Council. They request and receive reports by the City of Columbus in terms of services in their areas, and can recommend approval or disapproval of those changes. They review and evaluate pending legislation that may affect their area prior to consideration by council and advise on rezoning, special permits, variances, demolitions, and zoning appeals. Commissions may meet with the applicant for rezonings, special permits, and variances regarding property that is either wholly or partially within the commission area, and they discuss the proposals, their relationship to the area, and any possible modifications.

Mr. Johnson reported, in response to a research request, on two other cities that had models similar to area commissions. (presentation/map on file in the records of the Charter Review Committee) Cincinnati has a nine-member all at-large city council but all areas of the Cincinnati are covered by 51 community councils, covering 80 square miles of territory and 298,000 residents. They advise on zoning and development policy and are active in neighborhood programming. The Cincinnati community councils are eligible for \$6,800 a year in restricted discretionary funding to be used for things such as membership drives, newsletters, beautification and cleanup activities, youth summer employment or cultural activities for neighborhoods or workshops for the community members. The other model is the City of Seattle, which is covered by 13 neighborhood councils. Cincinnati is a nine-member hybrid city council with seven districts, but all areas of Seattle are covered by these neighborhood councils, which is about 142 square miles and 685,000 residents with all the neighborhood councils recognized by the city. They have parent-teacher organizations and non-profit organizations that are represented on the district councils. The leadership of the district council sits on the broader city neighborhood council which comes together to recommend matching funds from the city for neighborhood projects to the mayor and city council.

Chair Coe offered a point of clarification that current area commissions do not cover all of the City of Columbus. There are areas that don't have an area commission that may have a strong civic association or community group and some areas have nothing. Bradley added that we have 298 civic associations and some are very active and can be used for the same purposes as an area commission.

Ms. Johnson replied that block watches feed into civic associations and individuals from civic associations can be elected into the area commissions. Bradley followed by clarifying that civic

associations have a voice and can express their concerns about issues within their area. They are not excluded because they are not part of a commission. Ms. Johnson stated that if a civic association is not represented on an area commission their voice can still be heard via working with the neighborhood liaison assigned to their area.

Mr. Johnson added that often when Council hears zoning matters, there are often non-area commission bodies serving in an advisory role stating whether they approve or disapprove of a project because it doesn't fit with the neighborhood plan or aesthetic.

Chair Coe stated when there is an application for zoning, demolition permits, graphics permits, etc. they are required to come before area commissions before they get to the Development Commission and BZA. The statutes however, do not require them to go before a civic association. Most developers do because the community will come out and are involved and typically the BZA wants them to have things worked out with the neighborhood groups.

Vitale pointed out that during the debate on district representation for council the area commission system was most often cited as how neighborhoods have input at city council and asked for staff to report on what legislation over the last five or ten years has come from or been recommended by area commissions.

Bradley asked if Council notifies an area commission if there is legislation pending that affects their area. Mr. Johnson stated that more often than not the legislation moves through the Zoning Committee and in a majority of those instances, the area commission knows about the matter before Council does. Vitale asked if we are talking primarily about zoning matters, rather than an item in the capital budget that an area commission might want input on, such as street repairs. Bryan Clark (Chief Policy Advisor, Mayor's office) replied that both the operating budget and the capital budget are initiated by the Mayor's office and they are provided to area commissions, along with any other interested citizen at the same time that they are submitted to Council. Individuals are asked to provide feedback and very frequently you'll see neighborhood liaisons actively seeking that input.

Vitale also asked if staff could provide attendance of area commission representatives at council meetings. Mr. Johnson replied that attendance is not taken so it would be difficult to track. Vitale asked if there is any time set aside for area commission members to address council during their meetings. Mr. Johnson responded that Council President Klein has invited area commission presidents to come to council and deliver a neighborhood report as a custom under his presidency.

Vitale pointed out that in the city code rules for forming an area commission, it says it should be compact, homogenous, manageable in size, large enough for representation but small enough for effective representation but our entire city is represented by at-large council members.

McCarthy asked what kind of staff resources or funding the city provides for area commissions for organizational purposes. Ms. Johnson replied that the City provides \$2,500 annual to each of the area commissions and they do not provide formal staffing. Some of the area commissions do have a seat on their commission for a Mayor's representative and often one of the neighborhood liaisons may serve in that role. Liaisons attend the area commission meetings and help make sure they are following their bylaws and if there are any concerns or issues, they bring those back to city government. Columbus police and/or Fire liaisons often attend meetings, as well. Additionally the city has provided a number of trainings for area commission members.

Barroso de Padilla asked what the \$2500.00 budget is typically used for. Ms. Johnson stated it is generally used for the business operations of the commission, such as funding to help maintain the website. Unused funding is returned to the city at the end of the year.

Ms. Bradley asked about the City Council's Community engagement office and if those staff members have any formal responsibilities or association with the area commissions or civic associations. Mr. Johnson replied that Council President Klein created the Community Engagement team as one of his first initiatives upon becoming President and it was expressly created to create a deeper relationship with civic associations, block watches, and any other community level that exists to ensure that Council members are informed of what is going on in each area/neighborhoods. Discussion followed that clarified that there are Mayor's neighborhood liaisons and then four specific staff members from City Council separated by region.

Rosenberger questioned the financial support the City provides to area commissions. He stated that it seems to be a minimal sum given the importance of the role they play in the decision-making process. Rosenberger wondered if effectiveness could be ramped up by further resources. Ms. Johnson stated that the city's neighborhood liaisons assist area commissions with work as requested.

Vitale asked if members of area commissions are elected at large or are they elected by neighborhood. Mr. Johnson clarified that the City code says that area commissioners are appointed by the Mayor with the concurrence of Council, however, it has been the custom to respect the local election processes and appoint whoever won the election. Some subdivide the area commission into districts and some are at-large. Vitale asked for a list of which ones are at-large and who has representatives by district.

Chair Coe requested the second presentation, related to the full-time/part-time distinction of Council Members. (Mr. Johnson's presentation is on file in the records of the Charter Review Committee.)

Bradley inquired and it was clarified that the current City Council is considered part time; Council members set their own time, work schedules, and both are at their discretion.

Mr. Mills asked how the ten elected officials of Columbus are compensated. Mr. Johnson replied that the 2014 Charter Review Commission approved a Citizens Commission on Elected official pay. This was a five-member body that met in 2015, will meet in 2018, and every four years thereafter. They are required to take into consideration economic information and comparative analysis on peer cities to recommend a salary level for the ten elected office holders, at which time Council may decline to act or may act through ordinance to set the pay.

Mr. Mills questioned the size of Council staff and their various functions. Mr. Johnson replied that each Council Member has two personal staffers, a legislative aide and a legislative assistant that report directly to the Council Member. The Council President also has a Chief of Staff to help organize the work program of Council staff. Also, there are 14 central staffers that include Legislative Research and Community Engagement that are available to all seven members of council. Discussion followed about the year yearly budget for council, Mr. Johnson will forward that to committee members as a follow-up request. Bradley noted that although Council Members are considered part-time, they do have resources other than their own staff members, such as the Legislative research office and the Communications staff. Also, their service qualifies them for public employees' retirement, and they have the option of participating in the city's medical health insurance program.

McCarthy asked if staff noticed any correlation between the size of staff and the disposition of the council member office, or the council full-time status. Mr. Johnson stated they did observe that full-time councils tend to have larger staffs, such as three to four personal staffers each, some up to seven personal staff members once council got to that full-time level and it was a large city.

Ms. Gilyard asked how many hours City Council members are putting in and Mr. Johnson stated that each Council Member is different. Some have outside employment but in general, they most likely put in 26 hours or more per week to do the job effectively including committee work, community meetings and constituent work, however we do have some members who exceed 40 hours per week.

Vitale commented that in the recent election, one of the biggest arguments against a larger council was the amount that would be spent on council member salaries. Mr. Johnson stated the current Council Member salary is @ \$52,000. Mr. Vitale asked for a comparison of the cities on the list and what their council members are paid as a follow up item for staff. Discussion followed, initiated by Mr. Rosenberger, on the cost to run the offices of Council. Mr. Johnson stated that it is about \$537,297 per member including the cost of support staff and the centralized policy staff.

Chair Coe directed the meeting toward the third topic on the agenda, continuing previous discussions regarding vacancies and appointments. Bryan Clark's presentation slides are on file in the records of the Charter Review Committee. (comments are summarized)

Mr. Clark began by going back to the original top 25 data set, and if there were any statistically significant links between other features of that city and the way they filled vacancies, and found there were two. The first is that as staggered terms go up, special elections go down. Cities that have staggered terms are more likely to use an appointment process or a hybrid process. Cities that only elect every four years are more likely to call a special election to fill a vacancy. Cities that have non-partisan elections are less likely to have a special election. There are three common methods of filling vacancies. The first is an appointment, pretty straightforward, what Columbus does. Council votes to appoint a qualified elector to fill the vacancy. There are three variations we are talking about. The first is appointing for the not unexpired term, so essentially until the next regular election or special election. The next is appointment with a person elected at a special immediately taking office, which was an interesting quirk we saw in some cities. And then lastly appointment for the entire unexpired term. Columbus uses an appointment until either a special election or the next regular municipal election. So an appointee can never serve more than two years in the City of Columbus.

The most common hybrid form essentially says that if you have a year or less left on the term you can appoint someone. Otherwise, you must have a special election. The variations there are giving council the authority to appoint within the given time, if council doesn't act, the backstop is a special election. And then there are some options to give the city the option in the charter. They can either appoint or have a special election.

Last, we have special elections. In these cities, there is no allowance for an appointment. There are, however, some variations. One is requiring a special election within a certain time frame. This would be akin to our charter amendment process where the Ohio constitution requires that we call a special election within a certain number of days after that petition is put on the ballot by council. The other is aligning the elections with existing election dates, whether at the city or at the state level. We were asked to look at potential alternatives for filling

vacancies. We were also asked to provide staff's opinion of the pros and cons of any given alternative method.

First is what we would call a limited appointment caretaker. In this situation an entity can appoint a qualified elector to fill the vacancy, but the appointee, is ineligible to run to obtain the seat. This could apply for an election for the unexpired term and/or a new term in the specific seat. Variations of this that we have seen including recently here in Columbus is a handshake agreement that is non-binding. Essentially Council saying we will appoint you only if you agree not to run, or a charter provision that is legally binding with regard to caretaker.

The next, we are calling affectionately first loser. This would be an entity that would be required to appoint the person who had the most votes but didn't win the office. In a field election, this would be the person that is right past number four or number three in the City of Columbus, depending on the election cycle, and in a head to head, this would be the person who got the most votes but didn't win. If that individual is no longer qualified or is not willing to accept the appointment, the entity would then be allowed to appoint any qualified elector to fill the vacancy.

We were not asked to look into but felt it important to raise is what we are calling a majority trigger. In this case, the entity may vote to appoint a qualified elector to fill a vacancy unless it would result in a majority of the council members being appointed without an intervening election. In that instance, a special election must be used to fill any vacancy until the next regular municipal election. What this would look like in the City of Columbus is we have seven council members. If three council members stepped down and had appointees put in their seats prior to a regular election and there were a fourth member that stepped down, that fourth member would have to go on a special election. There would be no ability to appoint until the next intervening election. It is also important to note that this applies to unexpired term or special elections as well. This doesn't speak to how council members were originally placed on council. It speaks only to the appointment without an intervening election.

The next identified was limited appointment. Every city that appoints has some process they follow, but we found that some cities had a much more formal process that required public input. In addition to the current process, applications have to be accepted and made public. Council must use one or more public meetings where some subset of candidates are vetted before council and the public. This would be similar to a confirmation hearing used for cabinet members at the federal or state level. Council would have to vote in public to make the appointment at a public meeting.

One final option that we were asked to look at would be an unfilled vacancy. In a single city that uses this for some council members, the office must remain vacant until the successor has been elected either at the next regular municipal election or at a special election for the unexpired term scheduled on the date of the next municipal election.

Chair Coe asked that if more than one person resigns, could you go back to the caretaker model or first loser concept and if staff had any examples of what would happen if more than one person resigned at the same time or there was a vacancy of more than one seat. Clark replied that in the caretaker model if you have multiple people appointed, they would not be eligible to run in that next election cycle without an intervening election cycle, similar to state term limits. You can sit out an election and run again. Clark followed with unique challenges this would present in a field race.

McCarthy asked for a recap of the elements of the current process in Columbus, and Mr. Clark outlined the process. McCarthy followed by asking about other council appointment processes in peer cities where there are examples of public screening of potential candidates. Clark stated there are peer cities that allow for an appointment but their charter requires that council hold a public hearing. Typically you would have each council member choose one or more individuals to invite in, each would be presented with the same list of questions and the public would be allowed to provide comments at the end of that hearing.

Bradley questioned the cost of special elections and non-partisan offices/ballots. Clark clarified the three types of ballots used in Ohio and the challenges of special elections in even years and stated that the cost for a special in the City of Columbus is currently \$1.3 million.

Mr. Mills asked what the background is on that provision and when it was last challenged. Discussion followed regarding the subject and Clark was unaware of any challenges to it and stated during his time at the Secretary of State's office, it was a common and understood practice that goes back to the early 1900s during the progressive era. There was a desire at that time to remove urban party machines from the direct election process by removing either marks or party designation on the ballot and also banning, as our constitution does, straight ticket voting by party. Discussion followed regarding Columbus elections being non-partisan and whether Columbus could go to partisan elections.

Chair Coe directed the meeting toward the public comments and called the first speaker, Pastor Nancy Day Achauer.

Day Achauer stated that as a community leader on the far west side of Columbus, she was compelled to stress the importance of community input in city governance through our area commissions. Columbus is a large and diverse city whose city council lacks local representation from all areas of the city. Elected officials who are unfamiliar with the neighborhood lack the information needed to make informed decisions and unfamiliarity can lead to misunderstandings resulting in neglect or other negative impacts. Current area commissioners play a non-binding role regarding zoning and serve as liaisons with the city and much more could be done if given a greater voice. She stated that the current governance structure of Columbus has left the Westland area underserved and economically depressed and she added that she does not believe that the City of Columbus can effectively turn our situation around without a system allowing a form of authentic local representation. She asked the charter review committee to recommend changes to the charter that will incorporate a system of actual local representation in our city governance.

Chair Coe called the second speaker, Emmanuel Remy.

Remy began by stating he is the President of the Northland Community Council and thanked members of the committee and staff for the commitment and deliberations thus far. Northland is an area that is the largest community organization in the City of Columbus that predates the area commission structure. However, Remy emphasized that they are recognized by the city in all the ways that an area commission is such as by the BZA, the City Council, and the other types of committees. He commented that Issue one gave an opportunity to think a lot about the governance in the City of Columbus, and one can see by the voter turnout and the results of his that they don't have the concerns about being heard by City Council. He stated that looking at the population of the City of Columbus; it is time to expand Council. Nine to eleven members would be something that seems to

relieve some of the burden that the current Council Members face with committee assignments and then also being able to represent certain areas. He suggested that we work to strengthen the area commissions and civic associations. The at-large system has been working for the City of Columbus; the city has taken some great strides, one with the Department of Neighborhood Services and the other with President Klein developing Neighborhood Services at Council. He suggested assigning a Council Member to each particular area rather than mandating it by district. Columbus is a top city in so many ways across the nation, so if something is working so well, maybe we are doing the things the right way.

Chair Coe called the third speaker, Janet Wolosyn.

Ms. Wolosyn brought a sample zoning notice for committee members to view and indicated she was disappointed in the process. She indicated the one-page notice she received in the mail said nothing, then there were Development Committee hearings, and civic association meetings that they knew nothing about. She indicated when they received the notification they were told to look on the city's website for the information and stated it was not there. Once residents attended the meeting and found out what things were about it was not sitting well. Also there are gaps on how people get notifications about the legislation that affects their neighborhood and she would like to see some changes. Vitale asked if she tried to call any council members and she indicated she had been trying to reach them to lobby against this zoning change. Vitale followed by asking if she spoke to any Council Members. Wolosyn said she met with a couple of the Members and Michael Stinziano came to their homes. Discussion followed about her particular case and if it had been approved or disapproved by Council and it was determined that it was still tabled.

Chair Coe clarified that area commissions don't have any requirement to give any specific notice for the hearing of items. The meetings just have to be public and different area commissions handle that notification process differently. Most commissions post their agendas but whether people know to go out and read those or participate every month usually presents a challenge. Sometimes residents are finding out for the first time because they are not connected to the area commission or civic association process.

Rosenberger added that it was a perfect example that if there were resources, these processes could be improved and back offices could execute more. Chair Coe commented that making a standard so that people would know how to learn about what is being heard at area commission level in advance, including websites may be a good idea.

Chair Coe called the fourth speaker Kathleen Wolf.

Ms. Wolf stated that she was impressed that the city appointed a review commission for the charter. She stated that she lives in the same neighborhood as the last speaker. Ms. Wolf gave a variety of details relating to the zoning matter of concern and feels like the city seems to be rubberstamping and recommending it with none of the residents being informed.

Chair Coe called the last speaker, Jonathan Beard.

Mr. Beard indicated that he wanted to summarize some of the things the committee has heard over the last couple months and correct the record on one item first. The committee heard presentations that at-large elections are competitive and the average margin between the highest loser, biggest

loser, and the smallest winner is 5.6%. He indicated that he went back and looked at the election results in one of the tables that he submitted and the actual losing vote margins were 14, 44, 65, and 70% and covered margins in the 2011 election as well. He asked why races are so non-competitive and stated that it may be because campaign money follows the winners and challengers don't have the money to reach voters citywide. In 2013 the challengers raised \$17,000 and incumbents raised \$375. In 2011 the challengers raised \$275,000, but the incumbent raised \$750,000. He stated that incumbents themselves aren't raising the money; it has been the Council President providing 72% of the entire incumbent council member funding. He also suggested the committee look at the results of under voting - people who don't vote for all the candidates on a ballot or the three or four members in the field race but vote for one or two. He presented statistics on vote counts for specific races in last year's election and stated that he feels that most people are reluctant to use the party slate card and most would prefer to actually think and vote for themselves. He referred to a chart he will submit separately relating to council members and how they gained their seats and stated that we have a system where black Democrats must wait around seeking appointment and many who could be leaders wait around for the appointment process because they need the money. After that, they are more accountable and responsive to the Council President and political bosses than to the people. If it is not reality, it is at least perception, and that is the issue we should all be concerned about with our elections.

He provided more statistics from 2011 related to campaign funds. He stated that the role of a representative body is to be intimately familiar with the people they represent, not draw people out of the population and give them special privileges. He stated that our Council is too small. The city has grown too big to be represented by seven members. He suggested adding council members but not members who run in citywide elections they can't afford and also because of the expense and difficulty of running citywide elections. Individuals and parties are making decisions not to run as candidates based on expense and likelihood of success. He spoke about change needed in the local Democratic Party and then talked about the appointment process and representation of black citizens. He suggested if you change the appointment process then you have to change the format of council, create non-discriminatory methods of election like council districts, aggressive campaign financing with caps on contributions like citizens have voted for once but council never enacted as legislation. He commented that change won't come from the party in power or the politicians; it has to come from the citizens. He encouraged the committee to use their power to recommend change and show that the Columbus way does not mean black citizens have to have every electoral choice ratified by white citizens.

Closing Remarks

Chair Coe thanked everyone for the turnout and appreciated the committee members' for their attention. She stated that the committee will not meet again until January 5th. The next meetings are working meetings; they will be public meetings but will not have presentations. The committee will be working on the content for the final report and will probably have one or two more meetings after that. Dates and details will be forthcoming and the working meetings will take place at City Hall.

Adjournment

Hearing no further questions or concerns, Chair Coe asked for a motion to adjourn.

Bradley moved, Lawes seconded.

Meeting adjourned at 8:08 p.m.